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10/809,769	03/25/2004	John M. Medellin	END920030117US1	7925
37945	7590	04/22/2009	EXAMINER	
DUKE W. YEE YEE AND ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			ABDELSALAM, FATHI K	
ART UNIT	PAPER NUMBER			
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeeiplaw.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/809,769	MEDELLIN ET AL.
	Examiner Fathi Abdelsalam	Art Unit 3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 December 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. The following is a final office action in response to communications received on 12/15/2008. Claims 1, 3, 10-12, 15-17, 19 and 20 have been amended by applicants. Claims 1-20 are currently pending herein.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-10 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is

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being transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be preformed without the use of a particular apparatus. Thus, claims 1-10 describe a method nominally tied, at best, to a data processing system, wherein no functional tie or transformation takes place.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (US 5,897,620) (Hereinafter referred to as Walker).

6. Regarding **Claims 1, 11, and 20:**

Walker discloses a system; a method -- in a data processing system; and computer program product (having a computer-readable recordable type media having computer-executable instructions stored thereon) for obtaining

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transportation services for traveling between a point of origin and a destination, (the computer executable instructions) comprising:

receiving a request for transportation services, including a departure date, from a client device to form requested transportation services ([Col. 2, lines 44-45], "system and method for receiving a request to purchase a ticket to travel"). See also ([Col. 1, line 22], "Presently, tickets offered for sale by the airlines specify information including an itinerary (e.g., origin/destination locations and dates for travel) together with a flight number and a flight time"). See also ([Col. 7, line 35] "The flight schedule database 240 of data storage device 225 contains flight information including the origin and destination locations together with a departure date");

receiving, from the client device, an identifier of an acceptable travel window, wherein the travel window identifies a maximum amount of time that a passenger is willing to spend traveling from the point of origin to the destination ([Col. 2, lines 44-47], "system and method for receiving a request to purchase a ticket to travel from a specified departure location to a specified destination location within a specified time range"); and

generating, by the data processing system, a guarantee of the requested transportation services, and providing the guarantee of the requested transportation services from a transportation provider based on the departure date and the identified acceptable travel window ([Col 2, lines 35-37], "transmitting a request to purchase a commitment for carriage corresponding to the special fare listing information; receiving a commitment for carriage"). See

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Also ([Col 5, lines 60-63], "the unspecified-time ticket represents a commitment for carriage (i.e., an obligation by the airline to provide a seat on a flight) for the requested itinerary"). See Also ([Col. 2, lines 44-47], "system and method for receiving a request to purchase a ticket to travel from a specified departure location to a specified destination location within a specified time range"). See also ([Col. 7, line 35] "The flight schedule database 240 of data storage device 225 contains flight information including the origin and destination locations together with a departure date"); wherein:

providing the guarantee of the requested transportation services does not reserve a seat on any particular vehicle ([Col. 7, lines 5-8], "a generic" unspecified-time ticket may also be offered, which, in addition to not it specifying a flight number and flight time, would also not specify an airline.") See Also ([Abstract], "An unspecified-time airline ticket representing a purchased seat on a flight to be selected later, by the airlines, for a traveler-specified itinerary (e.g., NY to LA on March 3rd").

7. Regarding **Claim 2:**

Walker discloses the method of claim 1, further comprising:  
in response to a subsequent request from a client device, identifying one or more scheduled transportation services satisfying the travel window ([Abstract], "examining a plurality of flights which would fulfill the terms of the unspecified-time ticket to determine which flight to select"). See Also ([Col. 2, lines 44-47], "system and method for receiving a request to purchase a ticket to

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travel from a specified departure location to a specified destination location within a specified time range").

8. Regarding **Claim 3:**

Walker discloses the method of claim 1, further comprising:  
identifying one or more scheduled transportation services satisfying the travel window ([Col. 3, lines 17-18], "examining a plurality of flights which would satisfy the specified terms"). See Also ([Col. 2, lines 45-47], "specified departure location to a specified destination location within a specified time range");  
providing, at a time remote from the time that the guarantee of the requested transportation services is provided, one or more itineraries, that include one or more of the one or more scheduled transportation services, to the client device ([Col. 3, lines 20-23], "selecting one of the plurality of flights; and outputting notification of flight information, including a specified departure time, corresponding to the selected flight").

9. Regarding **Claims 4 and 13:**

Walker discloses a method and computer program product, wherein the one or more itineraries include an itinerary of scheduled transportation services automatically selected for a user of the client device ([Col. 3, lines 20-23], "selecting one of the plurality of flights; and outputting notification of flight information, including a specified departure time, corresponding to the selected flight").

10. Regarding **Claims 5 and 14:**

Walker discloses a method and computer program product, wherein the one or more itineraries include at least one of corresponding prices and corresponding discounts ([Col. 6, lines 45-48], "a bid so submitted may specify that the traveler 105 wants to purchase an unspecified-time ticket for a specific itinerary, and that the traveler is willing to pay \$375 for the ticket"). See Also ([Col. 3, lines 50-51], "offering for sale through a CRS discounted tickets for flights on a specific route on a specific day").

11. Regarding **Claims 6 and 15:**

Walker discloses a method and computer program product incorporating computer executable instructions, further comprising:

receiving a selection of a preferred itinerary of the one or more itineraries from the client device ([Col. 3, lines 20-23], "selecting one of the plurality of flights; and outputting notification of flight information, including a specified departure time, corresponding to the selected flight").

12. Regarding **Claims 7 and 16:**

Walker discloses a method and computer program product incorporating computer executable instructions, further comprising:

receiving a notification time from the client device indicating a time prior to a departure time at which notification of the one or more itineraries is to be made

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available to the client device ([Col. 6, lines 5-7], "the traveler 105 is provided with a special fare listing number and a notification date, by which date the traveler 105 will be provided with the actual flight number and a departure time").

13. Regarding **Claims 8 and 17:**

Walker discloses a method and computer program product incorporating computer executable instructions, wherein providing one or more itineraries to the client device includes sending an electronic notification to the client device at approximately the notification time ([Claim 76], "A system comprising: a memory device having embodied therein information relating to a plurality of flights; a processor in communication with said memory device, said processor configured to...provide notification of flight information, including a departure time, corresponding to said selected flight"). See Also ([Col. 6, lines 5-7], "the traveler 105 is provided with a special fare listing number and a notification date, by which date the traveler 105 will be provided with the actual flight number and a departure time").

14. Regarding **Claims 9 and 18:**

Walker discloses a method and computer program product, wherein: the one or more itineraries include itineraries that include one or more scheduled transportation services that meet the time window and itineraries that include one or more scheduled transportation services that are within a tolerance of the time window ([Abstract], "An unspecified-time airline ticket representing a

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purchased seat on a flight to be selected later, by the airlines, for a traveler-specified itinerary (e.g., NY to LA on March 3rd"). See Also ([Col. 2, lines 45-47], "specified departure location to a specified destination location within a specified time range").

15. Regarding **Claims 10 and 19:**

Walker discloses a method and computer program product incorporating computer executable instructions, further comprising:

in response to a selection of an itinerary from the one or more itineraries, wherein the selection is performed either automatically or by a user of the client device ([Col. 6, lines 65-67], "if the bid were accepted by the RMS 200, the RMS 200 would then select an actual flight to place the unspecified-time traveler 105 aboard");

booking a travel lane for the user of the client device corresponding to the selected itinerary ([Col. 10, lines 26-30], "FIG. 10 illustrates an exemplary reservations database 255 which maintains booking information for each flight offered by an airline 100. The reservations database 255 includes a plurality of records, each associated with the booking of a ticket for a particular flight"), wherein:

the booking of the travel lane is performed at a remote time from when the guarantee of the requested transportation services is provided ([Col. 6, lines 21-26], "In the case where bookings are transmitted to the CRS 300 in real-time, the travel agent notifies the passenger of the actual flight information in real-time

(within seconds or minutes after transmission of the booking) or, alternatively, by a notification date").

16. Regarding **Claim 12:**

Walker discloses a computer program product of claim 11, further comprising:

computer executable instructions for identifying one or more scheduled transportation services satisfying the travel window ([Abstract], "examining a plurality of flights which would fulfill the terms of the unspecified-time ticket to determine which flight to select"). See Also ([Col. 2, lines 44-47], "system and method for receiving a request to purchase a ticket to travel from a specified departure location to a specified destination location within a specified time range"); and

computer executable instructions for providing, at a time remote from the time that the guarantee of the requested transportation services is provided, one or more itineraries, that include one or more of the one or more scheduled transportation services, to the client device ([Col. 3, lines 20-23], "selecting one of the plurality of flights; and outputting notification of flight information, including a specified departure time, corresponding to the selected flight"). See Also ([Col. 6, lines 21-26], "In the case where bookings are transmitted to the CRS 300 in real-time, the travel agent notifies the passenger of the actual flight information in real-time (within seconds or minutes after transmission of the booking) or, alternatively, by a notification date").

***Response to Arguments***

17. Applicant's arguments filed 12/15/2008 have been fully considered but they are not persuasive.

18. Regarding the rejection of claims 1-20 under 35 U.S.C. §102:

Applicant has made assertion, but given no convincing arguments. However examiner will cite where Walker discloses amended elements.

Walker discloses:

Utilizing a departure date ([Col. 7, line 35] "The flight schedule database 240 of data storage device 225 contains flight information including the origin and destination locations together with a departure date"); and

Utilizing a travel window ([Col. 2, lines 44-47], "system and method for receiving a request to purchase a ticket to travel from a specified departure location to a specified destination location within a specified time range").

***Conclusion***

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is

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filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fathi Abdelsalam whose telephone number is (571) 270-3517. The examiner can normally be reached on Monday to Thursday 8:00-5:00pm ET.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. A./  
Examiner, Art Unit 3689

/Tan Dean D. Nguyen/  
Primary Examiner, Art Unit 3689  
4/18/09